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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 QIUORDAI LEWIS TAYLOR,

12 Petitioner,

13 v.

14 KARIN ARNOLD,

15 Respondent.

CASE NO. 3:25-cv-05265-TL

ORDER ON REPORT AND
RECOMMENDATION

16
17 This matter is before the Court on the Report and Recommendation of the Honorable
18 Michelle L. Peterson, United States Magistrate Judge (Dkt. No. 9) and Petitioner Qiuordai L.
19 Taylor's objections to the Report and Recommendation (Dkt. No. 10). Having reviewed the
20 Report and Recommendation, Petitioner's objections, and the remaining record, the Court
21 ADOPTS IN PART and MODIFIES IN PART the Report and Recommendation and OVERRULES the
22 objections.

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I. BACKGROUND

On March 28, 2025, Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.¹ Dkt. No. 4. The petition raises two issues: (1) double jeopardy clause of the Fifth Amendment; and (2) relief from judgment pursuant to Local Criminal Rule 7.8 under the Eighth Amendment. *Id.* at 6, 8.

On April 4, 2025, Judge Peterson issued an Order to Show Cause as to why Petitioner's claims were not time barred. Dkt. No. 7. Petitioner filed a response on April 11, 2025, asserting that: (1) the Fifth Amendment bars punishment of a person multiple times for the same offense; (2) the Eighth Amendment bars cruel and unusual punishment; (3) the Fourteenth Amendment provides equal protection and due process; and (4) the Washington State Constitution protects against multiple punishments for the same offense. Dkt. No. 8 at 1–2. Petitioner further asserted that the one-year time limit did not apply when there has been a significant change in law, and that the time bar was inapplicable here because the decision in *Washington v. Zyion Houston-Sconiers*, 188 Wn.2d 1, 391 P.3d 409 (2017), was a significant change in law that applied to him. Dkt. No. 8 at 2.

Judge Peterson issued a Report and Recommendation on May 13, 2025. Dkt. No. 9. Petitioner filed timely objections to the Report and Recommendation. Dkt. No. 10.

II. LEGAL STANDARD

A district court has jurisdiction to review a magistrate judge's report and recommendation on "applications for posttrial relief made by individuals convicted of criminal offenses." 28 U.S.C. § 636(b)(1)(B); *see also* Rule 8(b) of the Rules Governing § 2254 Cases ("A judge may . . . refer the petition to a magistrate judge to conduct hearings and to file

¹ Plaintiff file a proposed petition on March 26, 2025 (Dkt. No. 1) but did not pay the filing fee until March 28, 2025, at which time his petition was docketed.

1 proposed findings of fact and recommendations for disposition.”); Rule 10 (“A magistrate judge
2 may perform the duties of a district judge under these rules, as authorized under 28 U.S.C. §
3 636.”). “Within fourteen days after being served with a copy, any party may serve and file
4 written objections to such proposed findings and recommendations as provided by rules of
5 court.” 28 U.S.C. § 636(b)(1)(C); *accord* Rule 8(b). The court “shall make a de novo
6 determination of those portions of the report or specified proposed findings or recommendations
7 to which objection is made.” 28 U.S.C. § 636(b)(1)(C). The court “may accept, reject, or modify,
8 in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*

9 III. DISCUSSION

10 Judge Peterson recommends that Petitioner’s case be dismissed with prejudice without
11 leave to file an amended petition because “Petitioner presented his federal habeas petition to the
12 Court for filing over three years after the federal statute of limitations expired, [therefore,] his
13 petition is time-barred.” Dkt. No. 9 at 3. Further, Judge Peterson points out that Petitioner did
14 “not make any effort to demonstrate that he is entitled to any tolling of the one-year federal
15 limitation period.” *Id.*

16 A. Double Jeopardy

17 Petitioner’s objection attempts to re-argue the merits of the double-jeopardy issue. *See*
18 Dkt. No. 10 at 2–3. Petitioner continues to question whether the trial court violated the double-
19 jeopardy rule when it convicted him of second-degree assault and first-degree robbery. *Id.* at 2.
20 Petitioner raised this issue on appeal, and on January 23, 2018, the Washington Court of Appeals
21 rejected his argument that the separate convictions for the knife assault and first-degree robbery
22 violated due process. *State v. Taylor* (“*Taylor I*”), 2 Wn. App. 2d 1015, 2018 WL 509086, at *17
23 (2018). On June 6, 2018, the Washington Supreme Court denied his petition for review of the
24 Court of Appeals decision. *State v. Taylor* (“*Taylor II*”), 190 Wn.2d. 1022 (2018) (denying

1 review of *Taylor I* decision). Petitioner then appealed his judgment and sentence, arguing that he
2 was entitled to another remand for resentencing because the sentencing court had abused its
3 discretion by failing to conduct a full resentencing hearing. *State v. Taylor* (“*Taylor III*”), 13 Wn.
4 App. 2d 1049, 2020 WL 2126517 (2020). The Court of Appeals held that he was not entitled to a
5 full resentencing on remand. *Id.* at *3. On October 7, 2020, the Washington Supreme Court
6 denied his petition for review. *State v. Taylor* (“*Taylor IV*”), 196 Wn.2d 1012 (2020) (denying
7 review of *Taylor III* decision).

8 However, the issue with respect to the double-jeopardy claim is whether Petitioner timely
9 filed his federal habeas petition in accordance with the provisions of 28 U.S.C. § 2244(d)(1). The
10 Antiterrorism and Effective Death Penalty Act imposes a one-year statute of limitations on
11 petitions for a writ of habeas corpus filed by persons in custody pursuant to a state-court
12 judgment. *See* 28 U.S.C. § 2244(d)(1). As more fully explained in Judge Peterson’s Order to
13 Show Cause, “[i]t [] appears Petitioner’s conviction became final for purposes of § 2244(d) on
14 or about January 5, 2021. Petitioner’s one year statute of limitations would have begun to run the
15 following day . . . , and would have expired one year later, on or about January 6, 2022.” Dkt.
16 No. 7 at 2–3. Petitioner filed the instant petition in March 2025, over three years after the statute
17 of limitation had run. The Court agrees with the Report and Recommendation that Petitioner
18 neither makes any showing that his federal habeas petition on the double-jeopardy claim was
19 timely filed, nor demonstrates that he is entitled to any tolling of the one-year federal limitation
20 period. Therefore, his petition with regard to the double-jeopardy claim is time-barred and must
21 be dismissed.²

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23 ² Both in his response to the Order to Show Cause and in his objections, Petitioner cites the decision in *Washington*
24 *v. Zyion Houston-Sconiers* (Dkt. No. 8 at 2; Dkt. No. 10 at 3), where the Washington Supreme Court held that under
the Eighth Amendment, “[t]rial courts must consider mitigating qualities of youth at sentencing and must have
discretion to impose any sentence below the otherwise applicable [Sentencing Reform Act] range and/or sentence
enhancements.” 188 Wn.2d at 21. However, *Houston-Sconiers* has no bearing on Petitioner’s double-jeopardy

B. Request for Relief from Judgment

Petitioner states that he was 17 years old when he was charged and 18 years old when he was convicted. Dkt. No. 10 at 4. In *Taylor I*, the Washington Court of Appeals remanded the case for resentencing due to errors with sentencing enhancements that had been applied by the trial court. 2018 WL 509086, at *20. At the resentencing hearing, Petitioner’s counsel raised the change in the law resulting from *Houston-Sconiers* and requested to address the possibility of a downward exception based on youthful mitigating factors. Dkt. No. 10 at 4–5. The sentencing court declined to do so. *Id.* at 5; *see also Taylor III*, 2020 WL 2126517, at *2. Petitioner appealed, asserting that the sentencing court had abused its discretion by failing to conduct a full resentencing hearing and consider his youthfulness when imposing enhancements. *Taylor III*, 2020 WL 2126517, at *2. The Court of Appeals held that the sentencing court did not abuse its discretion when it followed the mandate of the court and addressed only the enhancements issue on remand, *id.* at *3, and the Washington Supreme Court denied a petition for review, *Taylor IV*, 196 Wn.2d 1012.

On September 6, 2023, Petitioner filed a motion in Pierce County Superior Court for hearing to address relief from judgment. Dkt. No. 4 at 8. It appears that, with regard to the motion, Petitioner has received neither a hearing nor a decision. *Id.* at 9. While the petition states that Petitioner “filed a writ of mandamus to the Washington State Supreme Court concerning my collateral attack issues,” *id.* at 6, it is unclear if this is referencing his appeals (*Taylor I–IV*) or a separate request regarding the motion for a hearing currently pending before the Pierce County Superior Court. However, as there has been no decision from Pierce County Superior Court on the pending motion (and the Court could find no record of any action involving Petitioner before

argument. Even it were somehow relevant, that decision was issued in 2017, seven years before Petitioner filed his petition.

1 the Washington Supreme Court other than *Taylor II* and *Taylor IV*), the request for review from
2 federal court in this habeas petition is premature. *See Brown v. Atchley*, 76 F.4th 862, 872 (9th
3 Cir. 2023) (holding that claims raised in federal habeas petition with regard to resentencing
4 issues did not become ripe until Petitioner's application for resentencing was denied).

5 IV. CONCLUSION

6 For the foregoing reasons, the Court hereby ORDERS:

- 7 (1) The Court ADOPTS IN PART and MODIFIES IN PART the Report and
8 Recommendation.
- 9 (2) Petitioner's objections are OVERRULED.
- 10 (3) The Court DISMISSES WITH PREJUDICE Petitioner's petition for writ of habeas
11 corpus (Dkt. No. 4) with respect to the double jeopardy claim as untimely under
12 28 U.S.C. § 2244(d)(1) and DISMISSES WITHOUT PREJUDICE Petitioner's claim with
13 respect to the motion for relief from judgment as premature.
- 14 (4) In accordance with Rule 11 of the Rules Governing Section 2254 Cases in the
15 United States District Courts, a certificate of appealability is DENIED.
- 16 (5) The Clerk is directed to send copies of this Order to Petitioner and to the
17 Honorable Michelle L. Peterson.

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19 Dated this 9th day of June 2025.

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21 Tana Lin
22 United States District Judge
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